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ABSTRACT

Intended for course instructors, this guide is the second of three designed for a two-day inservice training seminar for driver licensing administrative hearing officers. There are six sections, which acquaint the instructional staff with seminar duties, prescribe instructional methods, and cue instructors in visual aid use and unit time allotment. After the foreword and introduction in sections 1 and 2, the seminar agenda is outlined by units in section 3. Unit handouts are listed in section 4. Section 5 formulates guidelines for the instructor's qualifications, duties and responsibilities, instructional methods, and use of manual and lecture outlines. In the final section, there are ten individual unit presentations: (1) introduction, (2) the highway safety system, (3) licensing agency research review, (4) legal aspects: hearing conduct, (5) the sanction decision, (6) practical application: legal requirements, (7) public safety: driver problem identification, (8) interpersonal dynamics, (9) practical application: the hearing process, and (10) course summary. Each unit format is comprised of procedures, instructional objectives, references, instructor's outline, and suggested supporting materials. The units contain instructional aids appropriate to the unit topics, e.g., handouts for use by trainees. Two appendixes contain instructions for audiotape use and references. (Guides for administrators and participants are available separately. See note.) (CSS)

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ED159476

INSERVICE TRAINING SEMINAR FOR THE DRIVER LICENSING ADMINISTRATIVE HEARING OFFICER

INSTRUCTOR'S MANUAL

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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U.S. DEPARTMENT OF TRANSPORTATION
National Highway Traffic Safety Administration
Washington, D.C. 20590

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FOREWORD

In response to problems that have arisen because of the hundreds of thousands of traffic cases that overload court calendars, the National Highway Traffic Safety Administration (NHTSA) recently has revised its 1969 Highway Safety Standard 5, "Driver Licensing." The proposed standard calls for the development, in each State, of a comprehensive Traffic Case Adjudication System that will provide the maximum in highway safety benefits by reducing rates of traffic offense recidivism.

Over the past few years, NHTSA has commissioned a series of studies to define the current status of traffic case adjudication in the United States and to investigate the relative effectiveness of the various systems used in different locales. Results of these studies have emphasized the importance of what happens to the motorist in traffic court and in his or her contact with the licensing agency.

Many highway safety experts have suggested recently that exposure to the traffic courts and motor vehicle licensing agencies should educate drivers in traffic safety, as well as impart a respect for law enforcement agencies in general.

Toward this end, NHTSA has developed a 2-day training package for the Driver Licensing Administrative Hearing Officer, who is defined as the person authorized to hear and/or adjudicate motor vehicle licensing agency cases in which discretionary license actions are taken. NHTSA also has sought to determine the current state of development of the driver licensing agencies throughout the 50 States, with particular attention to the administrative hearings being conducted therein.

While developing the training material, an attempt was made in phase I to (1) identify the various alternative modes of driver licensing adjudication throughout the United States, (2) determine the dominant characteristics of the hearing process and the rules (both statutory and administrative) by which the hearing is governed, and (3) document the tasks performed by the hearing officer in "typical" hearings in nine different States. During phase II, a behavioral analysis was performed on the tasks documented in phase I, enabling NHTSA to identify the critical aspects of the hearing officer's performance that will most affect the subsequent driving behavior of the motorist. In phase III, the final training package was developed, including an *Administrator's Guide*, a *Participant's Manual*, and an *Instructor's Manual*.

INTRODUCTION

In preparing for the 2-day training seminar, the instructor should read this manual after thoroughly reviewing the *Administrator's Guide*. The entire package includes the following:

- *Administrator's Guide,* which details the seminar objectives, specifies the necessary materials to be assembled, and describes the procedures to be followed and the activities involved in preparing for the seminar.
- *Instructor's Manual,* which acquaints the instructional staff with all seminar duties, prescribes instructional methods to be used, and cues the instructors on visual aid use and time allotted for each unit.
- *Participant's Manual,* which contains the necessary schedule information and all additional materials to be used by the hearing officers in the seminar and should be used as a reference for all units.

This training development project was sponsored by the Office of State Program Assistance, National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation (DOT). Its overall objectives were:

- Definition and documentation of the safety-related tasks performed by hearing officers in nine States, through interviews with them and their supervisors and actual observations of licensing agency hearings.
- Identification of the types of training required to produce acceptable performance of all documented hearing officer tasks.
- Development and pilot test of a 15-hour curriculum package, including the *Administrator's Guide, Instructor's Manual,* and *Participant's Manual.*

The resulting training package has been designed for use by State licensing agencies as inservice training for those personnel who administer hearings to the driving public. The package focuses specifically on the legal, interpersonal, and public safety aspects of the hearing officer's job that are expected to have the greatest positive effect on highway safety.

After this manual has been reviewed, all preparations for the seminar can be made. The remaining sections of this manual provide detailed information regarding the qualifications for the instructors, the entry level expected of the participants, and the lecture outlines for the instructors' use.

References cited in the text by author and date are included in complete form in appendix B, alphabetically by author.

A brief description of each day of the seminar is provided in the agenda that follows.

SEMINAR AGENDA

Typical hours and contents are presented for each day. The seminar organizers may wish to change these to fit their particular circumstances.

Day One

9 a.m. to noon

Unit 1: Introduction

The seminar leaders and participants will be introduced; the purpose and scope of the seminar, explained; the expectations for the participants' activities, outlined; and the preseminar questionnaire, administered.

Coffee break

Unit 2: The Highway Safety System

The relationships among DOT, NHTSA, the Federal standards (5, 6, 7, and 10), and the State Departments of Motor Vehicles (DMV's) will be explained. Disparities among State vehicle codes, hearing officer and driver improvement analyst (DIA) positions, and agency policies will be described briefly. The tripartite nature of the hearing officer's role (legal, safety, and interpersonal) will be reviewed. The scope of the problem and methods of driver control will be illustrated with both national and State-level statistics.

Unit 3: Licensing Agency Research Review

Background on the research that has been done on licensing agencies and the Driver Licensing Agency Hearing Authority project will be provided so that participants can understand the basis for the information in the seminar.

Noon to 1 p.m.

Group lunch

1 p.m. to 5 p.m.

Unit 4: Legal Aspects: Hearing Conduct

The critical elements and sequence of activities that constitute the creation of an adequate record will be explained, including rules of evidence, taking of testimony, and opinion writing. Examples of progress being made by DMV's in the adjudication of traffic offenses will be discussed.

Unit 5: The Sanction Decision

Hypothetical situations will be posed and participants' judgments elicited to demonstrate mastery of this unit. The necessary components of the sanction decision will be explained fully.

Coffee break

Unit 6: Practical Application: Legal Requirements

The participants will be asked to demonstrate their mastery of this unit by responding to sample taped cases in which the requirements of due process are or are not met. Cues will be given for discrimination of improper actions being taken by the hearing officer, and the participants will learn to identify correct sequences of activities that conform to the latest mandates of the courts on administrative hearings.

Day Two

9 p.m. to noon

Unit 7: Public Safety: Driver Problem Identification

Using the types of data usually available to the hearing officer, the process of driver problem identification will be demonstrated. An NHTSA-sponsored diagnostic "tool" will be introduced that categorizes driver problems into specific "profiles." Sample cases will be reviewed; the problems will be identified independently and then compared and discussed by all participants.

Coffee break

Unit 8: Interpersonal Dynamics

Given sample hearing tapes, the hearing officers will be asked to choose the correct technique or techniques for use in problem identification. These will include paraphrasing, perception checking, and appropriate questioning.

Noon to 1 p.m.

Group lunch

1 p.m. to 5 p.m.

Unit 9: Practical Application: The Hearing Process

Participants will perform as both hearing officers and motorists in simulated situations. Hearings will be judged by both leaders and other participants on their legality, fairness, and potential effect on safety.

Unit 10: Course Summary

Participants will be requested to suggest alternatives to present sanctions and to discuss the need for policy or statutory changes. The postseminar questionnaire will be administered.

LIST OF HANDOUTS

After distributing copies of the *Participant's Manual* at the beginning of Day One, the instructors should distribute the following handouts to the participants at the times indicated in the lecture outlines.

Unit 1:

No. 1-1, Driver Licensing Administrative Hearing Officer Inservice Seminar: Preseminar Questionnaire

Unit 4:

No. 4-1, General Due Process Requirements for Administrative Hearings

Unit 6:

No. 6-1, Scoring Key—Driver Profile, Males under 20

Unit 7:

No. 7-1, Scoring Key—Driver Profile, Males 20-29

Unit 9:

No. 9-1, Case No. 1: Breath Test Refusal
No. 9-2, Case No. 2: Point Accumulation (10 points)
No. 9-3, Case No. 3: Fatal Accident
No. 9-4, Case No. 4: Driving Under the Influence
No. 9-5, Case No. 5: Breath Test Refusal
No. 9-6, Case No. 6: Point Accumulation (9 points)
No. 9-7, Case No. 7: Driving Under the Influence
No. 9-8, Case No. 8: Point Accumulation (16 points)
No. 9-9, Case No. 9: Point Accumulation (8 points)
No. 9-10, Case No. 10: Point Accumulation (13 points)
No. 9-11, Hearing Critique Form

Unit 10:

No. 10-1, Driver Licensing Administrative Hearing Officer Inservice Seminar: Postseminar Questionnaire

No. 10-2, Driver Licensing Administrative Hearing Officer Inservice Seminar Evaluation

INSTRUCTOR'S GUIDELINES

The following sections outline the qualifications needed by the instructors, the instructors' duties and responsibilities, the instructional methods to be used, and the materials and equipment needed. Use of the outlines as a basis for lecture and discussion also is explained.

QUALIFICATIONS

Because instruction for the seminar demands more than one area of expertise, it is recommended that at least two instructors be used. The qualifications needed by instructional personnel (and these may be met by two or three persons in combination) are:

- A basic familiarity with the hearing officer's role, in general, and specific knowledge of the hearing process and the duties and responsibilities of the hearing officer in the host State, in particular.
- Complete understanding of the NHTSA-sponsored research that underlies the seminar and the three aspects of the instructor's role—legal, public safety, and interpersonal.
- A working knowledge of the existing statutes in the host State that cover the traffic offenses for which a hearing is provided and of the sanctions available to the hearing officer.
- Knowledge of (or access to) data on:

  —Numbers and types of hearings held monthly and yearly in the host State.
  —Agency policy and mandates, both written and unwritten, by which the hearing officer is bound.
  —Numbers of court or administrative reversals of hearing officers' decisions in the host State over the past 3 years.
  —Court cases, both State and Federal, that have strongly affected the administrative hearing process since 1970.

- Sufficient legal experience to permit:

  —Correct interpretation of the host State's vehicle code.
  —Judgment of acceptability of the current hearing practices.

—Recommendations for improvement in the State's hearing process, given existing laws and agency policies.

DUTIES AND RESPONSIBILITIES

One of the instructor's primary responsibilities is to impress upon the hearing officers the necessity for observance of all of the requirements of due process of law in their hearings. This topic is of particular importance for the hearing officers' future role in the traffic offense adjudication process. For this reason, all seminar units should reflect clearly the need for accuracy and consistency in observing the principal tenets of due process while attempting to inform the participants about techniques that can be used to establish good rapport with the motorist.

The instructors are expected to work closely with the host State's licensing agency prior to the seminar to make sure that they have a clear picture of the hearing process, from first notification of the motorist through the imposition of the sanction. Guidelines for this cooperative effort can be found in the *Administrator's Guide*.

In addition, the instructors must be fully aware of the entire course content, sequence, and instructional methods used. It is their responsibility to control the duration of the seminar discussions and keep them on track, without appearing authoritarian. All hearing officers should be encouraged to participate actively in the seminar sessions to maintain a high level of interest and make sure that they see themselves as contributing participants rather than as passive students.

INSTRUCTIONAL METHODS

Three instructional methods are used in the seminar, based on sound educational research data that specify these approaches for achievement of different types of behavioral objectives. The instructor should adapt and apply the outlines provided in this manual, using:

- A lecture approach and an overhead projector in units 1-5, primarily because of the time constraints. This method is appropriate when numerous abstract concepts and new ideas are presented.
- The taped hearing demonstrations and case studies in units 6-8, which have been found to be extremely effective in producing behavioral changes among the participants because imitative modeling is easy to accomplish. When strongly reinforced by the hearing officers' supervisors, these procedures will be incorporated readily into the daily operations.
- The role-playing exercise in unit 9, which is accepted as the only demonstrable criterion by which hearing officer performance can be judged on the tasks in a simulated hearing.
- The brief question and answer period in unit 10, which provides the hearing officers with an opportunity to clarify all they have learned and prepares them to answer the postseminar questionnaires.

USE OF THE MANUALS AND LECTURE OUTLINES

The lecture outlines contained in this manual contain the major content areas to be discussed in the course of the training. The primary purpose of the *Participant's Manual* is to provide the hearing officers with all materials they will need during the 2-day seminar and to allow them to have a permanent record of the topics covered.

The Vu-graphs to be used in units 1-5 may be made directly from the pages that appear in those units in this manual. Where handouts are indicated, the pages from which they can be made also are included with the unit in which they are used.

Each unit contains a summary indicating unit number and title, time allotted, instructional methods, equipment required, instructional objectives, and appropriate references in addition to the actual outlines of the content to be presented in the time allotted. The first part is primarily for orientation to the unit and to the activities for which the instructor is responsible. The second part lists the topics to be presented in logical sequence, with suggestions for questions to be asked and examples to be used.

The content outline is intended for use as a starting point and should be adapted to suit the instructor's individual style. The topics listed are not to be read verbatim to the group but should serve instead as a basis for the instructor's lectures and discussions.

As can be seen in the *Administrator's Guide*, the course administrator and instructors must work closely with the host State before the seminar to obtain copies of necessary documents (e.g., vehicle code, Administrative Procedures Act, licensing agency hearing procedures). These State-specific documents are critical to the success of the seminar, since the instructors must have a clear picture of the agency's authority and existing hearing practices in order to structure the seminar presentations.

General recommendations to be followed by the instructors are:

- Carefully read the lecture outlines for each unit for which you are responsible, and review the documents that are used to provide background information. A list of all references used in the seminar is provided in appendix B.
- If necessary, contact the agency personnel who are most knowledgeable about the State's hearing procedures to clarify your perception of the hearing officer's role in the existing system.
- Review the unit as covered in the manual, and make notes on your own copy to supplement your lecture.
- Practice your presentation of all units to insure that they will fit into the allotted times. Devote the greatest amount of time to the critical issues raised in units 4 and 5 and to the demonstration of hearing officer skills (role-playing exercises) in unit 9.

Unit 1
INTRODUCTION

PROCEDURES

Procedures for unit 1 are as follows:

- Time allotted—Day One, 45 minutes.
- Method—lecture.
- Equipment required—none.

INSTRUCTIONAL OBJECTIVES

The objectives for the instructor are:

- To explain the basis for the seminar and its ultimate goals.
- To orient the group so that the participants can associate the seminar leaders with their respective areas of expertise.
- To describe the purpose and scope of the seminar and the levels of participation expected and to distribute the *Participant's Manual* to each member of the group.
- To obtain completed copies of preseminar questionnaires from all participants.

REFERENCE

The reference needed for this unit is Arthur Young and Company, 1977.

Instructor's outline	Supporting materials
A. Introductions	
1. Identify seminar as inservice training for administrative hearing officers, sponsored by NHTSA	
2. Introduce each instructor; allow him or her to describe background, experience, and connection with the seminar	
3. Ask each participant to state name, years of experience as a hearing officer, prior positions held with DMV, and other relevant background information	
B. Administrative Information	
1. Distribute *Participant's Manual* to each member of the group	*Participant's Manual* for all attending
2. Explain seminar agenda, meeting times, meal arrangements, breaks, and restroom locations	
C. Seminar Objectives	
1. Describe the purpose and scope of the seminar	
a. To make the group aware of the potential highway safety effects of the licensing agency hearings and of the actions taken by the hearing officers	
b. To inform the hearing officers of the tripartite nature of their role in highway safety	
(1) Legal aspects	
(2) Public safety aspects	
(3) Interpersonal aspects	
c. To instruct them on the skills and knowledge necessary to do their jobs most effectively	
d. To inform them of the need for observance of minimum requirements of due process of law, as mandated by recent U.S. Supreme Court decisions (e.g., *Bell* v. *Burson*)	
e. To permit the DMV supervisory personnel to compare their existing hearing practices with those recommended in the final report on the DLAHA study	Refer to Arthur Young and Company, 1977

Instructor's outline	Supporting materials
D. Seminar Procedures/Expectations	
1. Explain how various units will be presented, and identify instructor responsible for each	
2. Emphasize that seminar approach is a "gathering of professionals to discuss issues," not a teacher/student classroom-type presentation	
3. Briefly describe the problem identification tool (the Driver Profile), and note that its use will be fully explained in unit 6	
4. Explain purpose of pre- and postseminar questionnaires and the need to assess knowledge before and after the seminar	
5. Inform participants they will be asked to demonstrate proficiency by conducting a simulated hearing in unit 9, using hypothetical cases provided	
6. Distribute preseminar questionnaire, and allow at least 10-15 minutes for completion	Preseminar questionnaire for all participants (Handout 1-1)

DRIVER LICENSING ADMINISTRATIVE HEARING OFFICER INSERVICE SEMINAR: PRESEMINAR QUESTIONNAIRE

This questionnaire is designed to determine the extent to which you are familiar with the content material to be presented in this seminar. By answering the following questions to the best of your ability, you will enable the instructors to structure seminar presentations to best meet all participants' needs. If you need more space for your answers, use additional pages.

1. Indicate whether the following types of hearings are administrative (application of agency policy) or judicial (determination of guilt or innocence), or both, by placing a checkmark in the appropriate column(s).

	Administrative	Judicial
Point accumulation	____	____
Driving under the influence	____	____
Out-of-State notice of violation	____	____
Breath test refusal	____	____
License removal or restriction	____	____
Reinstatement of privileges	____	____
Fatal accident	____	____
Persistent violations	____	____

2. List below the minimum requirements that must be contained in the licensing agency hearing procedures to assure that "due process of law" is afforded to the motorist.

_____
_____
_____

3. How do the rules of evidence used in an administrative hearing differ from those that apply in a court of law?

_____
_____
_____

4. What are the minimal procedural elements of a hearing that must be entered into the record so that a court of appeals will not overturn the hearing decision for procedural reasons?

_____
_____
_____

5. At what point in the administrative hearing can the driver's record be reviewed?

_____

_____

6. At what point in the judicial hearing can the driver's record be reviewed?

_____

_____

7. List three driver characteristics that, according to recent research, are most likely to be predictive of future violations and/or accident involvement.

_____

_____

_____

8. List four behaviors of a hearing officer that promote the establishment of good rapport with a motorist.

_____

_____

_____

_____

9. What two things must the hearing officer get the driver to do in the hearing to increase the likelihood of improved driver attitude and improved subsequent driver behavior?

_____

_____

10. What are the responsibilities of the hearing officer with regard to the three major aspects of his or her job?

Legal aspects: _____

_____

_____

Public safety aspects: _____

_____

_____

Interpersonal aspects: _____

_____

_____

Unit 2
THE HIGHWAY SAFETY SYSTEM

PROCEDURES

Procedures for unit 2 are as follows:

- Time allotted—Day One, 1 hour 45 minutes.
- Method

  —Lecture.
  —Visual aids.

- Equipment required—overhead projector.

INSTRUCTIONAL OBJECTIVES

The objectives for the instructor of unit 2 are:

- To explain DOT's role as it relates to the various States and the influence of Federal standards on State programs.
- To explain the disparities among the vehicle codes, agency policies, and hearing practices of the 50 States.
- To delineate the three aspects (legal, public safety, and interpersonal) of the hearing officer's role.

REFERENCES

References needed for this unit are:

- Arthur Young and Company, 1977.
- House and Waller, 1976.
- Kaestner and Speight, 1974.
- Li and Waller, 1976.
- McBride and Stroad, 1975a, 1975b.
- State-specific information, where noted.
- U.S. Department of Transportation, 1974, 1975a, 1975b, 1976a, 1976b, 1977.
- Waller, 1976.

Instructor's outline	Supporting materials
A. Review of Highway Safety Statistics[1]	
1. History of NHTSA	
a. Highway Safety Act, 1966, created the Federal Highway Administration (FHWA) and NHTSA	
b. NHTSA and FHWA separated in 1969-70.	
c. Relationships among DOT, NHTSA, Federal standards, DMV's, and the hearing officer's position	Vu-graph 2-1
Explain that standards are guidelines provided to States; currently no standard or standard provision that actually pertains to the hearing officer; a review of the "adequacy and appropriateness" of the standards has been conducted and reported to Congress.	Refer to U.S. Department of Transportation, 1974, 1977
2. Four standards that affect the hearing officer	Vu-graph 2-2
a. No. 5—Driver Licensing *b*. No. 6—Codes and Laws *c*. No. 7—Traffic Courts *d*. No. 10—Traffic Records	
Explain the various elements of each standard and compare host State's programs with those outlined in the standards	Refer to information from host State agency
3. Highway fatalities	
a. DOT uses ratio of deaths per 100 million vehicle miles traveled as index of highway safety	Refer to U.S. Department of Transportation, 1976a

Year	Fatalities	Ratio
1967	52,924	5.48: 100 million miles
1972	56,278	4.44: 100 million miles
1975	45,500	3.50: 100 million miles

(1) Target is "3.0 by 1980," set by DOT; European rates range from 4.0 to 7.0:

[1] If at all possible, a staff member from the Governor's representative's office should be present for this portion of the unit.

Instructor's outline	Supporting materials
100 million miles, Asian and African rates as high as 50 to 60 deaths: 100 million miles.	
(2) Highest States (1974 data) Wyoming 5.9 New Mexico 5.7 Montana 5.0 Utah 5.0	
(3) Lowest States (1974 data) Connecticut 2.0 New Jersey 2.2 District of Columbia 2.4 Maryland 2.8	
b. Provide State-specific data, if available from host State agencies, on highway fatalities and on alcohol-related fatalities	Refer to information from host State agency
B. Scope of the Problem	
1. 130 million licensed drivers in United States in 1975; more than 150 million predicted by 1980	
2. Host State's data *a*. Number of licensed drivers in State *b*. Number of drivers suspended/revoked yearly *c*. Number of hearings held monthly/yearly *d*. Number of suspensions/revocations due to driving under the influence (DUI) offenses *e*. Other data of interest	Refer to information from host State agency
3. Who is the violator? Explain that research shows the population to be constantly changing; approximately 85 to 90 percent of those seen by hearing officers each year are first-time offenders	Refer to House and Waller, 1976; Li and Waller, 1976; Waller, 1976
4. What are the principal types of violations? *a*. More than 60 percent of all violations are for speeding with remainder distributed among DUI, point accumulation, and driving while suspended/revoked	

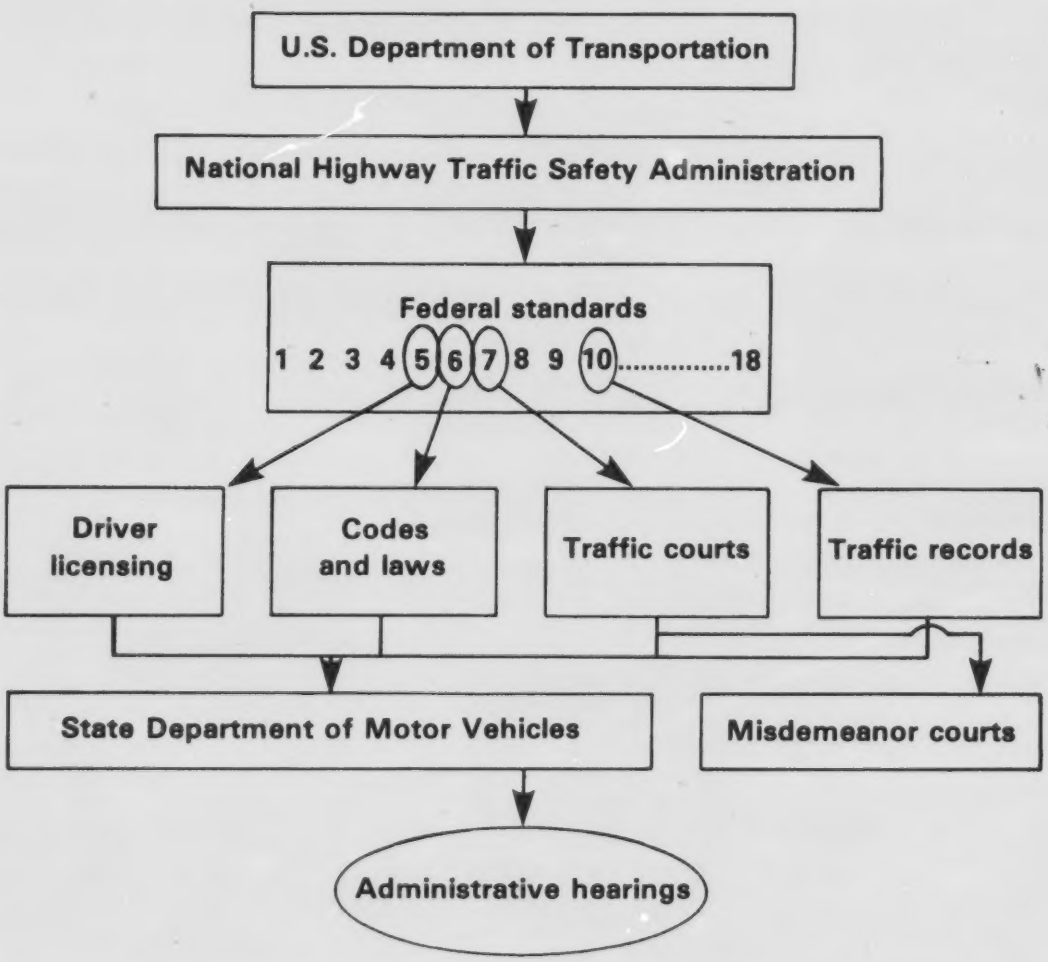
Instructor's outline	Supporting materials
b. Over 5 million suspended/revoked drivers in National Driver Registry in 1975: 52 percent for DUI, 13 percent for point accumulation, 5 percent for speeding, 5 percent for driving while suspended/revoked, with remaining 25 percent distributed among more than 20 other types of violations; of these 5 million suspended/revoked drivers, only 12 percent for two or more convictions	
5. The drinking driver—a large part of the problem driver population	
a. Since alcohol contributed to more than 50 percent of all fatal accidents, NHTSA has employed countermeasures specifically directed at the problem drinker who drives	Refer to Highway Safety Standard 8, U.S. Department of Transportation, 1974
b. Alcohol Safety Action Projects (ASAP's) have been funded in 35 jurisdictions since 1969, but only 10 still operating under Federal funds, although several cities/States have continued with only State funding	
c. Of the alcohol-related fatal accidents, two-thirds involve problem drinkers who have been arrested and/or treated for alcohol problems and remaining one-third consists of social drinkers and young drivers, inexperienced at both drinking and driving.	Refer to U.S. Department of Transportation, 1976a
d. Roadside surveys done by ASAP's show that 1 out of every 12 drivers on the road between 10 p.m. and 2 a.m. Friday and Saturday nights is legally intoxicated (0.10 blood alcohol content, BAC, in all States except Maryland where it is 0.10 impaired, 0.15 intoxicated)	
e. Average DUI arrests per officer are 5 to 6 per year; however, estimates suggest that only 2 out of every 2,000 persons who drive while intoxicated are detected and arrested	
6. Return to question of "Who is the violator?"	
a. Typically male, 20-35 years old, but this may be an artifact of high exposure in this group	Refer to McBride and Stroad, 1975b

Instructor's outline	Supporting materials
b. Divorced/separated of both sexes more prone to both violations and accidents *c*. If alcohol is problem, pattern of traffic offenses will usually emerge, particularly after life crisis such as marital problem or death in family	
7. Who controls the violator? Combination of courts and DMV action by hearing officer; since courts' dockets are typically crowded with matters judges consider more serious (e.g., felonies), task of identifying high-risk driver falls to hearing officers.	
C. Methods of Driver Control	
1. Warning letters 2. Preliminary conferences (warning that points have accumulated almost to suspension level) 3. Interview (to determine driver's fitness for reinstatement of removal of restrictions) 4. Hearing (before discretionary suspension/revocation) 5. Mandatory suspension or revocation (license is automatically requested, or physically taken, from the motorist upon conviction of certain offenses, e.g., DUI, second offense) 6. Jail sentence (varies from 1 day to 6 months for "serious" offenses, e.g., DUI or reckless driving)	Refer to McBride and Stroad, 1975b
With regard to the six driver control measures listed, the following points should be made.	
a. No well-controlled comprehensive studies conducted comparing any of these control measures with a "no treatment" (or control) group of drivers	
b. Data so far collected appear to favor face-to-face interview over warning letter or automatic suspension as method of preventing repeated violations	Refer to Kaestner and Speight, 1974; U.S. Department of Transportation, 1975a, 1975b, 1976b
c. Substantial data base exists on courts' avoidance of imposition of sanctions viewed as too "heavy," such as jail terms and mandatory suspensions/revocations	

Instructor's outline	Supporting materials
(when sanctions are viewed as too punitive, police will not arrest, prosecutors will not prosecute, and judges will not convict)	
D. Driver Control—The Hearing Officer's Responsibilities 1. Legal—Must safeguard the motorists' rights to a "fair and impartial" hearing 2. Public safety—Must take proper measures to remove unsafe drivers from highways and improve their attitudes and/or driving skills, when appropriate 3. Interpersonal—Must assure that motorists are favorably impressed with the DMV's treatment of traffic offenses, since this may be their only contact with the system	Vu-graph 2-3
Lead discussion of this view of the hearing officer and obtain contribution from each participant	
E. Hearing Officer Contacts That Have Potential Highway Safety Effects 1. Point accumulation hearing (including DUI) 2. Breath test refusal hearing 3. Fatal accident hearing 4. Habitual offender (negligent driver) hearing 5. Preliminary conference (warnings before maximum points are accumulated) 6. Financial responsibility 7. Interview for reinstatement of driver privileges 8. Interview for removal of license restrictions 9. Hearing for out-of-State violations	
F. The Hearing Officer's Role and Due Process A . . . problem stems from the role of the hearing officer at the hearing. Since it is not uncommon for a licensee to be unrepresented by counsel, and for the department to be similarly unrepresented, a peculiar responsibility is imposed on the hearing officer. He cannot sit back and umpire the actions of two antagonists. The hearing officer often has the responsibility for developing all of the facts through the introduc-	Refer to Arthur Young and Company, 1977

Instructor's outline	Supporting materials
tion of documentary evidence, interrogation of witnesses, etc. In reality, license suspension hearings are more inquisitional (investigatory) in approach rather than adversary. While it might seem incongruous for the decision-maker to be responsible for getting the facts, it is not unusual in administrative procedures nor does it materially differ from the role many judges play in disposing of minor offenses and traffic violations where neither the state nor the defendant are represented by counsel. Requiring the decision-maker to develop the relevant facts is not inconsistent with the requirement that he decide the issues on the facts fairly and impartially . . . . There are some lower court cases which have held in recent years that a person untrained in law cannot preside over criminal prosecutions in which the defendant might receive a prison sentence. There are, however, no comparable administrative decisions and it is unlikely that there would be. Administrative decision-making has not traditionally required lawyer-judges. Furthermore, the United States Supreme Court has upheld the Kentucky judicial system whereby minor criminal offenses are tried by non-lawyer judges who have no special training in law. In the Kentucky scheme a dissatisfied defendant can appeal to a higher court presided over by a lawyer-judge and the matter is retried de novo. This was held to meet due process requirements. In license suspensions the issues more often are factual rather than legal, or call for the exercise of discretion which might involve the assessment of traffic safety considerations. Also, since most states provide for some form of judicial review on matters of law, the licensee ultimately can have legal issues resolved by a regular court.	
G. Summary Summarize unit by repeating the three aspects of hearing officer's job—legal, public safety, and interpersonal; explain that there are nine types of hearing officer contacts that will be dealt with in this seminar, but the most frequent (one to six) will be covered most comprehensively	

RELATIONSHIPS AMONG U.S. DEPARTMENT OF TRANSPORTATION, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, FEDERAL STANDARDS, STATE AGENCIES, AND HEARING OFFICERS



Vu-graph 2-1

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FOUR STANDARDS THAT AFFECT THE HEARING OFFICER

5 Driver Licensing Program

- One license per driver
- Driver examinations and medical evaluation
- Driving records for all licensed drivers
- Driver improvement

6 Codes and Laws

- Statewide uniformity of codes and laws
- Conformity with uniform vehicle code

7 Traffic Courts

- Uniform requirement for all drivers charged with hazardous moving violations to appear in court
- Uniform reporting, accounting, and court procedures in all traffic cases
- Mandatory reporting to State Department of Motor Vehicles
- Fair, effective, and efficient adjudication of traffic offenses

10 Traffic Records

- Statewide information system on drivers, vehicle accidents, and highways
- Driver records
- Accident statistics

Vu-graph 2-2

HEARING OFFICER RESPONSIBILITIES

Legal
- Application of laws
- Due process
- Impartiality/fairness
- Complete records

Public safety
- Diagnosis
- Appropriate sanctioning
- Safety awareness

Interpersonal
- Rapport
- Respect
- Concern

20

Vu-graph 2-3

Unit 3
LICENSING AGENCY RESEARCH REVIEW

PROCEDURES

Procedures for unit 3 are as follows:

- Time allotted—Day One, 30 minutes.
- Methods

  —Lecture.
  —Visual aids.

- Equipment required—overhead projector.

INSTRUCTIONAL OBJECTIVES

The objectives for the instructor of unit 3 are:

- To explain the data base used for the administrative hearing officer task analysis and the seminar materials development.
- To describe the research efforts being made by NHTSA to define existing hearing practices and develop a "model" hearing procedure.

REFERENCES

References needed for this unit are:

- Arthur Young and Company, 1977.
- Nesbitt and McGill, 1976.

Instructor's outline	Supporting materials
A. The Administrative Hearing Officer Training Development Project	
1. Explain the questionnaire survey of nine states	Vu-graph 3-1
2. Describe the hearing officer observations and interviews conducted in six States, highlighting opinions of senior hearing officers regarding critical job tasks	Vu-graph 3-2 (Refer to Nesbitt and McGill, 1976)
3. Explain the hearing officer profile generated, assumed to be common to all 50 states	Vu-graph 3-3
B. The DLAHA Study	
1. Purpose and scope—identify through 50-State survey the structures and policies of all State DMV's, the hearing officer's role in each system, and numbers and types of hearings held	Vu-graph 3-4 (Refer to Arthur Young and Company, 1977)
2. Expected results—produce a conceptual model of the licensing agency structure, organization, and hearing practices	

STATES RECEIVING HEARING OFFICER QUESTIONNAIRE

- California
- Iowa
- Louisiana[1]
- Michigan
- Minnesota
- North Carolina
- Oregon[1]
- Virginia
- Wisconsin

[1]No response received

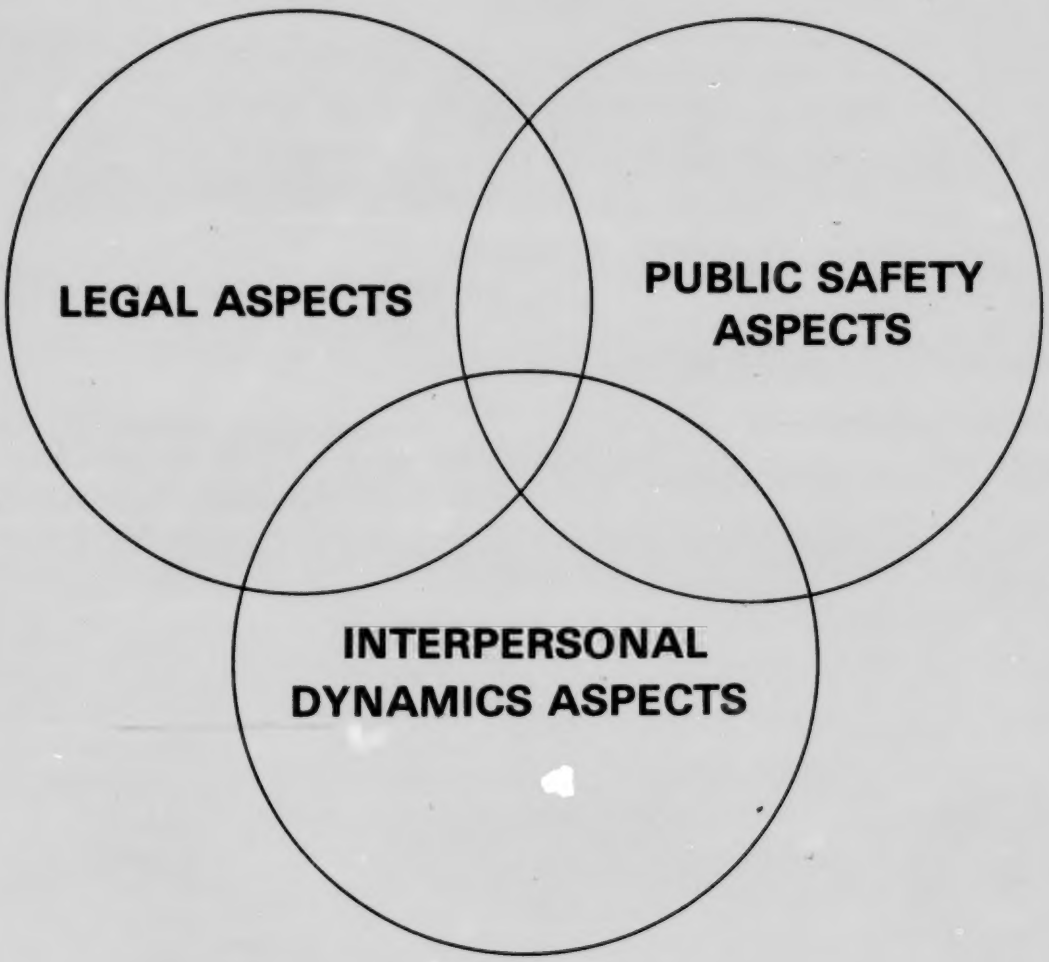
Vu-graph 3-1

NUMBER OF INTERVIEWS AND HEARINGS OBSERVED

State	Interviews		Hearings Observed
	Supervisors	Hearing Officers	
California.....	1	3	2
Maryland.....	3	3	8
Michigan.....	3	4	6
Minnesota.....	2	5	5
New York.....	2	3	8
Wisconsin.....	5	3	4

Vu-graph 3-2

THE HEARING OFFICER'S ROLE



Vu-graph 3-3

DRIVER LICENSING AGENCY HEARING AUTHORITY SURVEY

- Description of system
- Responsibilities, backgrounds, and training of hearing officers
- Court appeals
- Numbers of hearings per year

Vu-graph 3-4

Unit 4
LEGAL ASPECTS: HEARING CONDUCT

PROCEDURES

Procedures for unit 4 are as follows:

- Time allotted—Day One, 2 hours.
- Methods

  —Lecture.
  —Discussion.

- Equipment required—none.

INSTRUCTIONAL OBJECTIVES

The objectives for the instructor of unit 4 are:

- To define the minimum criteria that must be met by each licensing agency hearing to make certain that the requirements of due process are satisfied.
- To compare the hearing procedures of the host State with those required by recent court decisions.
- To illustrate court opinions on adequate notice, requirement for a hearing, and type of hearing to be afforded to the motorist.

REFERENCES

References for this unit are:

- Force, 1974.
- Naftalison, 1972.
- Sindler, 1974.
- State-specific information, where noted.

Instructor's outline	Supporting materials
A. The Nature of the Licensing Agency Hearing	
1. Administrative sanction not a punishment for wrongdoing; imposition of punishment a court function 2. Agency's sanction used only to protect and promote the public interest 3. License revocation upon violation of vehicle code has been upheld because agency promotes highway safety by removing unsafe driver from the roads	
Examples:	
This distinction was observed (*Bell* v. *Department of Motor Vehicles*, Wash., 1972, 496 P.2d 545) as rejecting a contention that administrative revocation of a driver's license violated the doctrine of separation of powers. It was noted that the department's function is regulatory and not penal in nature—the purpose being to protect the public and not to punish the licensee.	Refer to Sindler, 1974
Another court (*Beamon* v. *Department of Motor Vehicles*, Calif., 1960, 4 Cal. Rptr 396) found that administrative sanctions are to make the streets safe by protecting the public from incompetence, lack of care, and willful disregard of the rights of others by the driver.	
There is grave doubt whether courts can impose administrative sanctions constitutionally. Although some courts obviously do, such action amounting to administrative regulation may violate the doctrine of separation of powers.	
B. The Legal Requirements of Administrative Hearings	Handout 4-1
1. Handout covers stringent due process requirements more typical of actual court proceedings but many of these also should be observed in licensing agency hearing	

Instructor's outline	Supporting materials

2. Supreme Court has rejected an approach that would insist upon procedural due process safeguards only when individual's "rights" are threatened

3. Controlling factor is neither the mere legal characterization of the citizen's interest nor whether the governmental entity that impinges on that interest is judicial or administrative; test is whether an adjudication may seriously affect the individual or result in adverse consequences; if so, individual is entitled to procedural due process safeguards.

4. Content of due process varies with the situation, and the legal requirements are most demanding in criminal prosecutions; although administrative due process has not been as demanding as criminal due process, certain parallels exist; the following due process protections currently are available in traffic cases:

   a. Impartial tribunal
   b. Notice of charges and hearing
   c. Formal hearing with right to be heard
   d. Confrontation and cross examination
   e. Right to remain silent
   f. Proof of guilt beyond reasonable doubt
   g. Right to retain counsel
   h. Speedy trial
   i. Right of appeal

C. Application of Due Process to the Licensing Agency Hearing

Review tasks required of hearing officer to afford due process to motorists. Differences are:

Criminal case	Administrative hearing
Proof beyond a reasonable doubt	Preponderance of evidence
Only direct evidence is acceptable	Hearsay evidence acceptable

Instructor's outline		Supporting materials
Entitled to court-appointed counsel if jail sentence is a possible penalty.	Entitled to counsel, but State not required to provide it, even for the indigent	
Speedy trial (within *x* number of days)	Not actually required, but impact on motorists' behavior undoubtedly higher if hearing held soon after offense/conviction	

D. Court Decisions

1. Quotes describing court decisions on adequate notice, provision of hearing, and nature of hearing — Refer to Sindler, 1974

a. Adequate notice

As to proper notice, for instance, in the most recent appropriately named case of *State* v. *Sinner* 207 N.W.2d 495 (N. Dak. 1973), the court held that *Sinner* was properly served with the order of suspension of his driver's license (unless he applied for a hearing within the statutorily prescribed periods) by the mailing of a copy of such order to him at his last known address by regular mail. In this case, the court also held that provisions of the state's A.P.A.[1] relating to providing interested parties of decisions by registered or certified mail do not apply to the issuance of driver's license suspension orders. [Sindler, 1974, p. 36]

b. Hearing to be provided

As to provision for a hearing, as recent as this year (1974) an Oregon case, *Ames* v. *Motor Vehicles Division Department of Transportation*, 517 P2d 1216, held that suspension of the privileges of operating a motor vehicle requires a hearing both constitutionally and by statute. The case which perhaps goes the farthest in demanding the protections of a hearing is *Holland* v. *Parker*, 354 F. Supp. 196 (1973), in which the court held a South Dakota implied consent

[1] A.P.A. = Administrative Procedures Act.

Instructor's outline	Supporting materials

statute unconstitutional for its failure to provide a hearing prior to revocation of a driver's license on refusal to take a blood-alcohol test. Even under the "emergency doctrine" revocation without a hearing, the court held, in the case of a driver who refuses to submit to the test is not justified when, if the same driver took the test, he would be permitted to retain his license and would be provided a forum for his defense, to wit, prosecution for driving while intoxicated.

However, the hearing required may not be controlled by the provisions of the A.P.A., depending on the specificity of your state motor vehicle code. In an important California case, *Lacy* v. *Orr*, 81 Cal, Rptr. 276 (1969), the court held that where a state vehicle code specifies hearing procedures the A.P.A. as a general law must by established precedent yield to the special statute where a variance exists. The fact that the hearing was held under appropriate provisions of the aforementioned vehicle code rather than the A.P.A. and that hearing officers of the DMV are not required to be attorneys does not, despite the fact that motorist demanded that same be conducted by a 'qualified hearing officer to conduct the administrative hearing,' render the hearing invalid. However, a North Dakota court held that the provisions of the state A.P.A. are applicable to orders of revocation of a driver's license. *Agnew* v. *Hjelle*, 216 N.W.2d 291 (1974). [Sindler, 1974, pp. 37-38]

c. Nature of the hearing

While the hearing afforded a motor vehicle operator is not judicial in nature, a 1972 Georgia Case, *MacLafferty* v. *Department of Public Safety*, 191 S.E.2d 490, held that the hearing must be at least formal enough that the hearing officer at a hearing held pursuant to the Implied Consent Law must make findings of fact that the motorist was advised by the arresting officer of the statute requiring motorist to submit to a chemical test to determine alcoholic content and that failure to do so will result in the suspension of his operating privileges and must render a conclusion of law covering these findings of fact and that the hearing officer failing to

Instructor's outline	Supporting materials
do this, the order will be held to be unauthorized. Also, a 1969 Nebraska decision laid down the basic rule that orders of the director of motor vehicles revoking driver's licenses are within the purview of the administrative procedure act requirement that every decision and order of an administrative agency in a contested case adverse to a party to the proceedings be in writing and be accompanied by findings of fact and conclusions of law. *Prigge* v. *Johns,* 165 N.W.2d 559. The courts have gone even further in requiring adherence to the formalities of due process. The fact that failure to observe even one aspect of administrative due process can be fatal is exhibited by the recent case of *Dawson* v. *Austin,* 205 N.W.2d 299, 44 Mich. App. 390 (1973), in which the court held that as all reports by arresting officers for refusal to take a chemical test to determine blood-alcohol content were required to be sworn, failure of the officer to raise his right hand and swear to the authenticity of the information in the report rendered the entire motor vehicle department proceedings invalid. [Sindler, 1974]	
2. For the purposes of an administrative hearing, preponderance is described as the "greater weight of evidence." In making his decision, then, Naftalison (1972) suggests that the hearing officer should consider "attitudes, appearance, and acts of parties and witnesses," as well as what may be deduced from these under the circumstances. In essence, the hearing officer's decision should be based on whether or not he or she feels the motorist and/or the witnesses are credible. He or she is not required to obtain proof "beyond a reasonable doubt," as a court would in a criminal case.	Refer to information from host State agency; Naftalison, 1972

GENERAL DUE PROCESS REQUIREMENTS FOR ADMINISTRATIVE HEARINGS

(Excerpted from Naftalison, L. J., *Manual for Hearing Officers in Administrative Adjudication. Revised Manual No. 16.* New York: Civil Service Commission, 1972)

1. There must be adequate and timely notice of hearing and of every material step in the proceeding.
2. The purpose of the hearing and the issues involved must be stated clearly and simply in the notice; and, when possible, the notice should contain a statement of the statute, rule, or regulation involved and also the factual basis of the hearing or the charge involved.
3. The hearing must be before an impartial adjudicator.
4. There must be a full opportunity to be heard.
5. All parties must have the right to be represented by counsel or other representatives of their own choosing.
6. All parties have the right to bring witnesses to the hearing.
7. All parties are entitled to hear the whole testimony and the evidence produced against them, to know the claims or charges made against them, and to confront and be confronted by all parties and witnesses on the other side. There are exceptions of necessity.
8. All parties have the right to offer evidence and witnesses in their behalf and to rebut or explain testimony or evidence against them.
9. All parties have the right to cross-examine other parties and witnesses and to offer argument or explanation in support of their positions or contentions.
10. All parties have the right to have the power of subpoena exercised in their behalf, to bring in persons and records, according to the statutes, rules or regulations and court decisions governing subpoenas.
11. There must be substantial evidence, adequate to support pertinent and necessary findings of fact.
12. There must be a written decision setting forth findings of fact, conclusions of law or opinion, giving the reasons for the decision.
13. The conclusions or opinion in the decision must be governed by and based upon all the evidence adduced at the hearing. There must also be substantial evidence to support them.
14. The decision must be promptly served on all parties and their representatives.

15. If there is a right of administrative appeal from the decision, the notice of that right should be given with the decision.
16. Judicial review of the decision of the hearing officer or of a higher administrative tribunal must be afforded.

Unit 5
THE SANCTION DECISION

PROCEDURES

Procedures for unit 5 are as follows:

- Time allotted—Day One, 30 minutes.
- Methods

  —Lecture.
  —Visual aids.

- Equipment required—overhead projector.

INSTRUCTIONAL OBJECTIVES

The objectives for the instructor of unit 5 are:

- To review the types of sanctions available in the host State and the procedure used to inform the motorist of the decision.
- To explain the legal and public safety problems inherent in any system that does not provide direct and immediate feedback to the motorist on sanction decision.

REFERENCES

State-specific information is required in this unit.

Instructor's outline	Supporting materials
A. The Existing System	
Discuss in detail how present system handles the sanction decision	Refer to hearing information obtained from host State agency
1. Who actually decides?	
2. How and when is the motorist informed of decision?	
3. Are all necessary elements of the sanction decision recorded (either manually or on tape)?	Vu-graph 5-1
B. The Importance of Immediate Feedback	
1. Notice how much delay between offense and conviction, and between conviction and summons for hearing	
2. Discuss the loss of safety impact over time if sanction not administered as close to offense as possible	
3. Review legal issues involved in hearing officer's being empowered only to recommend or to decide if the power has been delegated to him by the Commissioner of Motor Vehicles	
C. Summary	
Review each element of the decision, and examine host State's present practices to determine if all central components are included	

THE SANCTION DECISION

Central components are:

- **Opening statement**
- **Statement of issues**
- **Findings of fact**
- **Opinion/rationale**
- **Conclusion and judgment**
- **Action to be taken**
- **Notice to motorist**

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Vu-graph 5-1

Unit 6
PRACTICAL APPLICATION: LEGAL REQUIREMENTS

PROCEDURES

Procedures for unit 6 are as follows:

- Time allotted—Day One, 1 hour 30 minutes.
- Methods

  —Lecture.
  —Demonstration.
  —Tapes of simulated hearings.

- Equipment required

  —Cassette tape player.
  —Tapes A and B (see appendix A for instructions).

INSTRUCTIONAL OBJECTIVES

The objectives for the instructor of unit 6 are:

- To illustrate all the correct legal steps and interviewing techniques that should be employed in the hearing process.
- To have participants critique a hearing officer's poor handling of three cases with emphasis on the lack of findings of fact and the sanction imposed and on public safety and interpersonal aspects.
- To illustrate undesirable behavior by a hearing officer that violates the motorist's legal rights to due process.
- To show participants how to use the Driver Profile form for identifying driver problems and to assign a sample lesson for discussion next morning.

REFERENCE

The reference for this unit is McBride and Stroad, 1975b.

Instructor's outline	Supporting materials
A. The Model Hearing (Tape A) 1. Introduce tape A by explaining that, in this model, hearing officer meets all objectives of a licensing agency hearing—legal, public safety, and interpersonal 2. Point out specific items that should be observed—all of those hearing officer tasks that appear in *Participant's Manual* (see unit 4) *a*. Listen to tape for first 3 minutes *b*. Stop tape just before hearing officer mentions sanction being imposed *c*. Ask participants if all elements of due process have been observed, what type of sanction each would recommend for this driver, and why *d*. Listen to sanction given by hearing officer in model hearing tape *e*. Lead discussion of the legal and public safety aspects of the sanction decision	Tape A
B. Critique of Sample Hearings (Tape B) 1. Introduce tape B by explaining that several elements are missing and/or confused in sanction decisions they will hear; using forms provided in their manuals, participant should identify where/when hearing officer makes an error and describe what he or she should have done 2. Repeat the following procedure for both sides of tape *a*. Listen to tape for first 3 minutes *b*. Stop tape just before hearing officer mentions sanction being imposed *c*. Ask participants to comment on hearing officer's procedures up to this point and suggested sanction for this case; lead discussion on errors and omissions *d*. Listen to sanction as administered by hearing officer *e*. Stop tape and lead discussion on good and bad points in the hearing	Tape B

Instructor's outline	Supporting materials
f. Review legal requirement of the sanction decision, and discuss the necessary changes	
C. Summary of Day One	
Review main legal points regarding the procedural requirements of due process, fairness, impartiality, and the sanctioning process	
D. Preview Day Two	
1. Explain activities of Day Two from perspective of hearing officer's multiple roles and effect of the two remaining aspects on highway safety	
a. Public safety—techniques for identification of driver problem and importance of accurate identification for traffic safety	
b. Interpersonal—techniques for establishment and maintenance of rapport with motorist and importance of concerned communication to assure positive motorist attitude at conclusion of hearing	
2. Explain mock hearing procedures and importance of the mock hearing for integrating into a single activity the techniques presented by the training on the three roles of the hearing officer	
E. Introduction to Problem Identification	
1. Briefly preview the problem identification materials of unit 7 explaining the general purpose and format of the diagnostic assessment of driver problems	Refer to McBride and Stroad, 1975b
2. Explain scoring procedure of the driver profile, using scoring procedure and Figures 7-1 and 7-2 in unit 7 of *Participant's Manual*	
3. Applying the scoring procedures, show group how to score Driver Profile of John Collins (Case A, *Participant's Manual*)	Handout 6-1

Instructor's outline	Supporting materials
F. Assignment for Day Two 1. Refer participants to case B, James L. Johnson, and blank Driver Profile in unit 7 of *Participant's Manual,* to be filled in by participants basing responses on biographical information presented for James L. Johnson in case B 2. Explain that completed Driver Profile for James L. Johnson will be scored in class on morning of Day Two	

♦ Align with arrow on Driver Profile

Scoring key—Driver Profile
Males under 20

Date _____

Name _____

Driver License Number _____

___ Driver under 20

___ Driver 20-29

___ Driver 30-59

___ Driver over 60

___ Male

___ Female

	Risk taking	Recognition	Alcohol
1.	1	1	1
2.			
a.	3	—	1
	4	—	2
b.	3	1	—
	4	2	—
c.	3	1	—
	4	2	—
d.	2	—	2
	3	—	3

♦ Align with arrow on Driver Profile

	Risk taking	Recognition	Alcohol
e.	1	1	1
	2	2	2
3.	2	1	1
4.	—	—	4
5.	1	1	1
	2	2	2

Date _____

Name _____

	Risk taking	Recognition	Alcohol
6.			
a.	2	—	3
b.	2	—	2
c.	2	—	1
d.	—	—	—
7.	—	—	—
	2	—	1
8.			
a.	1	—	1
b.	1	—	—
c.	1	—	—
d.	—	—	—
e.	1	1	—
f.	1	—	—
9.	—	—	—
10.			
a.	1	1	1
b.	2	2	2
11.			
a.	—	—	—
b.	2	—	—
c.	2	1	—
d.	1	—	—

	Risk taking	Recognition	Alcohol
12.	1	—	—
	—	—	—
13.	—	—	—
	1	1	—
14.	2	—	—
	—	—	—
15.	2	—	—
	—	—	—
16.	3	—	—
	—	—	—
17.			
a.	1	—	—
b.	1	—	—
c.	1	—	—
d.	1	—	—
e.	1	—	—
18.			
a.	—	1	—
b.	—	—	—
c.	—	—	3
d.	—	2	—
e.	—	—	—
f.	—	—	—

	Risk taking	Recognition	Alcohol
19.			
a.	—	—	3
b.	—	—	2
c.	—	—	1
d.	—	—	—
20.			
a.	—	—	3
b.	—	—	2
c.	—	—	1
d.	—	—	—
21.			
a.	—	—	5
b.	—	—	4
c.	—	—	3
d.	—	—	2
e.	—	—	1
f.	—	—	—
22.			
a.	4	4	4
b.	3	3	3
c.	2	2	2
d.	1	1	1
e.	—	—	—

	Risk taking	Recognition	Alcohol
23.			
a.	1	—	—
b.	1	—	—
c.	1	—	—
d.	—	—	1
e.	1	—	1
f.	—	—	—
g.	—	1	—
h.	—	1	—
i.	1	—	—

Sum of points: Sum of points: Sum of points:

Driver Problem Assessment Guide
Males under 20

	Risk taking score	Recognition score	Alcohol score
Average	Less than 10 points	Less than 10 points	Less than 10 points
Slight problem	10 to 20 points	10 to 15 points	10 to 20 points
Major problem	Greater than 20 points	Greater than 15 points	Greater than 20 points

Unit 7
PUBLIC SAFETY: DRIVER PROBLEM IDENTIFICATION

PROCEDURES

Procedures for unit 7 are as follows:

- Time allotted—Day Two, 2 hours.
- Methods

  —Lecture.
  —Demonstration.

- Equipment required—none.

INSTRUCTIONAL OBJECTIVES

The objectives for the instructor of unit 7 are:

- To evaluate and discuss participants' use of the Driver Profile.
- To explain the usefulness of the profile in identifying specific types of driver problems.

REFERENCES

References needed for this unit are McBride and Stroad, 1975a, 1975b.

Instructor's outline	Supporting materials
A. Introduction	
1. Explain the need for problem identification	
a. To benefit the driver and promote his or her safety	
b. To preserve public safety	
c. To aid the hearing officer in his or her choice of sanction	
2. Discuss the assumptions made regarding the worth of problem identification	
a. That a relationship does exist between the driver's problem and the sanction that should be imposed	
b. That reliable categories of driver problems do exist and fall into specific patterns (e.g., risk taking, recognition, alcohol)	
c. That there are reliable and valid measures of driver problems	
B. Approaches to Problem Identification	
1. Discuss the two general types of approaches to problem identification, objective and subjective	
a. Provide general definitions of approaches	
b. Give example of each type	
2. Expand on use of the objective approach to problem identification	
a. Review relevant research sponsored by NHTSA to develop a diagnostic assessment technique for identifying driver problems in order to implement effective countermeasures to those problems	
b. Discuss the approach used by the Human Resources Research Organization in this research that involved the identification of variables that predict high accident probability and the organization of those variables to formulate an assessment tool	Refer to McBride and Stroad, 1975b, pp. A-13 to A-15

Instructor's outline	Supporting materials
c. Describe the actual project activities (1) Examined the vast research in traffic safety to identify variables determined to be somewhat predictive of future accidents (2) Examined types of conviction to form an a priori clustering of significant variables (3) Estimated commonalities among driver errors as represented by traffic violations (4) Performed statistical studies with a priori analyses indicating that the following variables are most differentially predictive of traffic safety problems/ driver errors and violations (a) Biographical data (*b*) Exposure—daily mileage (*c*) Past performance—total convictions of violations (e.g., DUI, speed), accidents, previous license actions (*d*) Psychological variables—attitudes toward driving (*e*) Alcohol consumption; frequency of driving after drinking	
d. Review driver problem categories (i.e., alcohol-related errors, risk-taking errors, recognition errors) that resulted from the statistical analyses	
e. Discuss the six distinct classes of drivers (who differ in age and sex) that resulted from the cluster analysis of all predictors and introduce the scoring procedure for diagnostic assessment	Refer to McBride and Stroad, 1975b
f. Describe contents of final product of this research (1) Driver Profile (2) Scoring keys (3) Driver Problem Assessment Guide	

Instructor's outline	Supporting materials
g. Review the actual scoring procedure,[1] using the sample case in *Participant's Manual* (James L. Johnson, sample case B)	Handout 7-1
h. Mention that remaining scoring keys are found in appendix to *Participant's Manual*	
i. Use of diagnostic assessment to driver problem technique should be summarized by explaining again key variables that were found to be the best predictors of future violations/accidents	
3. Explain use of subjective approach to problem identification (most typically used by all hearing officers without actually calling it that)	
a. Discuss ways in which data resulting from objective approach provide cues for subjective approach	
b. Discuss and give examples of the types of questions that can be used to isolate the primary underlying cause of the driving problem	
c. Emphasize use of subjective approach in getting driver to agree to the nature of the driving problem and to take an active role in determining a resolution to that problem (i.e., how the driver can keep the underlying factor from affecting his or her driving)	
d. Review sanction options available to hearing officer in host State and their applicability to the three major types of driving problems (alcohol, recognition, and risk taking)	
C. Summary	
1. Explain that the purpose of both subjective and objective approaches to problem identification is twofold	
a. Getting motorist to admit to problem or, better yet, to identify it himself or herself	

[1]Instructor should be sure he or she is completely familiar with the scoring procedure, since participants will need a clear explanation.

Instructor's outline	Supporting materials
b. Getting motorist to participate in devising plan to solve problem	
2. Explain that hearing officer's purpose is not to solve motorists' personal and psychological problems, but to address those problems only as they affect driving behavior (e.g., when you're angry, don't drive); seek alternatives to driving while under influence of psychological and/or physical stress	

CASE B

Directions:[2] (1) Complete the Driver Profile from the information provided for this hypothetical driver (James L. Johnson).
(2) The profile will be scored on the morning of Day Two, using the scoring key for males 20-29 that will be provided by the instructor.

Date of Notification:	August 13, 1976.
Date:	September 1, 1976.
Name:	James L. Johnson; address: 702 Cascade Road, Raleigh, N.C.
Date of birth:	October 12, 1951.
License issued:	June 5, 1968.
Employment:	Salesman, Office Business Machines, Inc.
Vehicle type:	1975 Pontiac Grand Prix, registered to J. L. Johnson.
Driver's record:	September 4, 1974—Speeding, 65 mph in 55 mph zone. July 17, 1976—DUI conviction with BAC of 0.12. No accident; 15-day suspension. December 19, 1975—Struck moving car after failing to stop at stop sign. Minor injuries/$425 damage total. August 7, 1976—Speeding, 68 mph in 55 mph zone.

CASE B: BIOGRAPHICAL DATA

Motorist:	James L. Johnson, 24 years old, salesman.
Description:	Projects an image of a self-assured young man who is unaware that he is on his way to becoming a problem drinker. The recent separation from his wife has bothered him and may have triggered his excessive drinking over the past 3 months. He is reluctant to talk about either his drinking or his separation and is impatient to get the hearing over with.
Employment:	Has held only two jobs in past 4 years, both for the same company. Started out as machine repairman, and has advanced to salesman position.
Personal characteristics:	Separated since early June, no children. His wife is a nurse at local hospital. Anticipates reconciliation soon. Graduated

[2] These directions and the following biographical data correspond to information included in the *Participant's Manual* for practice use of the Driver Profile. They are included here for the instructor's reference.

from a 2-year college in 1972 with a business degree. Smokes one pack per day, but is trying to cut down lately, since he thinks it makes him more nervous.

Drinks moderately, one drink before dinner each night, one or two after dinner on weekends. Sometimes might have three or four at a party or if meets friends at a bar. Will drive home after drinking three or four, but carefully. Only drinks on Sunday mornings to "wake-up"—a Bloody Mary or screwdriver. Embarrassed to admit morning drinking. His wife has mentioned his increased drinking as one of the reasons she moved out, but it is not their main problem. She feels he's careless about debts and spends too much on himself and his car. Admits to driving after an argument to "blow off steam." Reluctantly admits that DUI arrest took place after an argument with his wife. Went to bar to "cool off" and had too much to drink.

Driving habits: Likes to drive, especially high-performance cars. Always uses seat belts. Would have a sports car if his wife had agreed, but she wanted a less expensive family-type car. Drives 2,000 miles per month on the job. He covers a five county territory, selling business machines. Needs license for work.

Health: Excellent—no problems.

Attitudes: Feels that his speeding arrest was unfair, since many other drivers were going as fast as he was, but he was only one policeman singled out.

The DUI arrest also was questionable, since he didn't think he'd crossed the center line as the officer said he did. He knew he'd had a few too many drinks, but he felt he ought to get home and sleep it off.

Admits after series of questions that he has been drinking more lately because it made him forget his problems with his wife, their money worries, etc.

♦ Align with arrow on Driver Profile

Scoring Key—Driver Profile
Males 20-29

Date _____

Name _____

Driver License Number _____

____ Driver under 20

____ Driver 20-29

____ Driver 30-59

____ Driver over 60

____ Male

____ Female

	Risk taking	Recognition	Alcohol
1.	1	1	1
2.			
a.	3	—	1
	4	—	2
b.	3	—	—
	4	—	—
c.	3	—	—
	4	—	—
d.	2	—	2
	3	—	3

♦ Align with arrow on Driver Profile

	Risk taking	Recognition	Alcohol
e.	1	1	1
	2	2	2
3.	2	1	1
4.	—	—	4
5.	1	1	1
	2	2	2

Date _____

Name _____

	Risk taking	Recognition	Alcohol
6.			
a.	—	—	—
b.	2	—	3
c.	2	—	2
d.	2	—	2
7.	—	—	—
	1	—	1
8.			
a.	2	—	2
b.	1	—	1
c.	2	—	3
d.	—	—	—
e.	1	1	—
f.	1	—	—
9.	1	—	1
10.			
a.	1	—	1
b.	2	—	2
11.			
a.	—	—	—
b.	1	—	—
c.	1	—	—
d.	1	—	—

	Risk taking	Recognition	Alcohol
12.	—	—	—
	—	—	—
13.	—	—	—
	1	1	—
14.	1	—	—
	—	—	—
15.	1	—	1
	—	—	—
16.	2	1	1
	—	—	—
17.			
a.	1	—	1
b.	1	—	1
c.	1	—	1
d.	1	—	1
e.	—	—	—
18.			
a.	—	1	—
b.	—	1	—
c.	—	—	3
d.	—	2	—
e.	—	—	—
f.	—	—	—

	Risk taking	Recognition	Alcohol
19.			
a.	—	—	3
b.	—	—	2
c.	—	—	1
d.	—	—	—
20.			
a.	—	—	3
b.	—	—	2
c.	—	—	1
d.	—	—	—
21.			
a.	—	—	5
b.	—	—	4
c.	—	—	3
d.	—	—	2
e.	—	—	1
f.	—	—	—
22.			
a.	4	4	4
b.	3	3	3
c.	2	2	2
d.	1	1	1
e.	—	—	—

	Risk taking	Recognition	Alcohol
23.			
a.	1	—	—
b.	1	—	—
c.	1	—	—
d.	—	—	1
e.	1	—	1
f.	—	—	—
g.	—	1	—
h.	—	1	—
i.	1	—	—
	Sum of points:	Sum of points:	Sum of points:

Driver Problem Assessment Guide
Males 20-29

	Risk taking score	Recognition score	Alcohol score
Average	Less than 15 points	Less than 8 points	Less than 12 points
Slight problem	15 to 25 points	8 to 14 points	12 to 20 points
Major problem	Greater than 25 points	Greater than 14 points	Greater than 20 points

Unit 8
INTERPERSONAL DYNAMICS

PROCEDURES

Procedures for unit 8 are as follows:

- Time allotted—Day Two, 1 hour.
- Method

  —Lecture.
  —Tape.

- Equipment required

  —Cassette tape player.
  —Tape C.

INSTRUCTIONAL OBJECTIVES

The objectives for the instructor of unit 8 are:

- To describe common barriers to communication and the need for establishing good rapport with the motorist.
- To explain how to use the techniques of paraphrasing, perception checking, and summarizing in the hearing.
- To stress the critical importance of getting the driver to recognize his or her problem and actively participate in its solution.

REFERENCES

References needed for this unit are:

- Argyris, 1971.
- Buening, 1974.
- Carkhuff, 1969.
- Johnson and Johnson, 1975.
- Knapp, 1972.

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Instructor's outline	Supporting materials
A. Introduction 1. Discuss the term "interpersonal dynamics" 2. Discuss importance of effective communication to establish good rapport and promote mutual understanding	
B. Prehearing 1. Set the stage 2. Emphasize the importance of a comfortable and informal setting, including: *a*. Arrangement of chairs with no barrier between hearing officer and motorist that would interfere with good eye contact or cause the hearing officer to "sit above" the motorist causing him to feel threatened or inferior *b*. Table top clean with all necessary papers, files, and forms at hand *c*. Adequate parking facilities, if at all possible	
C. First Impressions Discuss use of first impressions as diagnostic data 1. Nonverbal cues, such as eye contact, gestures, facial expression, eye movement, and tone of voice, provide insights concerning emotional reaction to hearing—fear, anger, etc. 2. The appearance of motorist (e.g., hair, clothing) provides information concerning a person's self-image 3. A handshake provides additional data on the degree of tension felt by motorist and is good ice-breaker	
D. Building Rapport 1. Discuss subtleties of building rapport, while pointing out what tends to alienate people *a*. Maintain eye contact *b*. Treat motorist as an equal (1) Adjust vocabulary and terminology to motorist's level—do not "talk down"	

Instructor's outline	Supporting materials
(2) When motorist is talking, give him or her your full attention—do not do other tasks such as fill out forms	
c. Demonstrate an interest in person as individual by asking informal questions rather than plunging into fact-finding types of questions	
(1) Try to find some common interest or experience (e.g., hometown or school district, participation in the same sports/hobbies)	
(2) Use warm tone of voice to convey interest in motorist as individual	
2. Discuss techniques for leading and directing conversation to main objective of hearing: driver's own recognition of underlying cause of driving problem and agreement on a solution	
a. Remind hearing officer that due process requirements cannot be ignored in the attempt to be informal and pleasant	
b. Stress importance of flexibility, not always agreeing with what motorist says, but always projecting image of openmindedness	
3. Discuss three different types of questions to be used in hearing and kinds of responses each type of question elicits (tape C)	Tape C
a. Direct questions, which usually result in specific yes/no answer, should be used only to obtain facts	
(1) Often result in putting people "on the spot" and arouse defensive attitude	
(2) Should be used sparingly and only for fact finding (give examples)	
b. Open-ended questions, less threatening than direct questions, allow for variety of possible responses and can provide unexpected information and insights	
(1) Careful objective phrasing of each question essential	

Instructor's outline	Supporting materials
(2) Open-end questions can be used to demonstrate hearing officer's concern and openmindedness (ask for examples from participants)	
c. Clarifying questions that reiterate what has been said and help to assure there is no misunderstanding	
E. Active Listening (essential for effective communication)	Refer to Argyris, 1971
1. Discuss use of paraphrasing/restatement to check understanding of what has been said (also connotes the hearing officer's interest and attention)	
2. Point out that while paraphrasing ascertains what has been said, it does not imply hearing officer's agreement with what has been said	
3. Summarization of motorist's testimony will help to eliminate his or her feeling of not being understood	
4. Respond to nonverbal cues	Refer to Knapp, 1972
a. Respond to obvious cues (e.g., frown) with a tentative statement as to what it might mean (give examples)	
b. Respond to driver's feelings if they are apparent, particularly if they are interfering with the hearing	
5. Explain perception checking and how it can be used to determine if hearing officer is being understood (i.e., is the driver comprehending hearing officer's position and what potential results of hearing might be)	
6. Utilizing the section in unit 8 of *Participant's Manual* on "Twelve Common Barriers to Communication," describe and expand upon the common barriers to effective communication	
F. Summary	
1. Techniques outlined in this unit, applied to hearing setting, will go a long way toward	

Instructor's outline	Supporting materials
creating a positive motorist attitude toward the hearing officer and the agency that he represents and will aid in creating change in driving behavior through increased willingness to improve upon errant driving behaviors	
2. Explain that skills required to apply these techniques take time to develop and some hearing officers will develop them faster than others	Refer to Argyris, 1971, Buening, 1974; Carkhuff, 1969; Johnson and Johnson, 1975; Knapp, 1972.
3. Effects of applying the techniques to increase communication will be greatly enhanced when combined with personal characteristics of warmth, honesty, acceptance, and trust (Comprehensive training in "human relations" is beyond the scope of this training package, but such characteristics can be developed through guidance that might be found in group counseling seminars, helping professions clinics, or accredited sensitivity training programs frequently held by many State and local agencies for their personnel)	

Unit 9
PRACTICAL APPLICATION: THE HEARING PROCESS

PROCEDURES

Procedures for unit 9 are as follows:

- Time allotted—Day Two, 3 hours 15 minutes.
- Methods

  —Lecture.
  —Role playing.
  —Discussion.

- Equipment required—none.

INSTRUCTIONAL OBJECTIVES

The objectives for the instructor of unit 9 are:

- To have hearing officers demonstrate how to conduct a hearing in role-playing sessions using sample records and biographies.
- To provide each hearing officer with critical feedback on his or her performance and solicit critiques from other participants.

REFERENCES

No references are required for this unit.

Instructor's outline	Supporting materials
A. Introduction to Role-Play Exercise	
Describe sequence of activities in a role-playing exercise:	
1. Biography is given to person who will play role of motorist (the seminar leader may choose to play motorist's role for first one or two exercises)	Handouts 9-1 to 9-10
2. Stage is to be set by person acting as hearing officer who should read description of motorist's age, sex, and most recent offenses to group and explain reason for the hearing	
B. Conduct Role-Playing	
1. Hearing officers will conduct the hearings as they normally would, using table and chairs off to one side of classroom so they can be readily observed by all	
2. All participants and seminar leaders will complete a Hearing Critique Form for each simulated hearing conducted	Handout 9-11
3. After hearing has been enacted, participants should be asked to comment before the leaders; focus all discussion of the simulated hearings on the three aspects treated in the critique form	
4. If time permits, request that hearing officers explore different judgments they might make and sanctions they would impose if motorist's age, sex, and/or offenses were changed	

CASE NO. 1: BREATH TEST REFUSAL

Motorist:	Robert B. Grant, 38 years old, shop foreman.
Goal:	Project image of a hard-working individual who has obtained his employment goal and rewards himself for his success. A problem drinker, he has been treated at a mental health clinic and has also attended the Baltimore Alcohol Safety Action Project school. His aim is to have the hearing officer see him as a victim of inequities regarding his two DUI arrests. Regarding this case, his approach is that anyone can make an error in judgment and that he simply was in a hurry, the road was not well lighted, the rain obscured his vision of oncoming traffic.
Employment:	Employed by Bishop Foundry for the past 17 years. Started there in the shop and after 10 years became shop foreman.
Personal characteristics:	Divorced in 1975, two children, one with his wife and one in the U.S. Army. A blue collar worker, Mr. Grant is dedicated to his job and his employer and needs his car to get to and from his place of employment. A nonsmoker (except for an occasional cigar) but a moderately heavy drinker (at least four or five beers each evening, and far more on weekends). Does not think he is a problem drinker though his ex-wife divorced him because of his drinking behavior and frequent difficulties with the law because of his drinking. He works hard and thinks he is entitled to a "little relaxation." He feels his two DUI arrests were arbitrary and that since "everyone drives after drinking alcohol," questions why he is repeatedly being singled out for punishment. Attempts to control his drinking problem have not been considered seriously by him as rehabilitation measures, since he's "not an alcoholic after all."
Driving habits:	Normally drives 200-300 miles per week to and from work and recreational activities. Never wears seatbelts and is often in a hurry. Drives home from the local tavern and bowling alley after his usual six or eight beers every Friday and Saturday night. Feels that he is an extremely capable driver and that "a few beers" don't affect his driving abilities.
Health:	At his yearly company-mandated physical examination, Mr. Grant was found to have high blood pressure for which he was given medication and encouraged to cut down on his drinking.

Attitudes:

Mr. Grant begins the hearing by stating that he had "a few beers" before the time of the accident but that he was not drunk. His error in crossing the center line was due to a mistake in judgment and not due to alcohol. He explains that he would not agree to a breath test because he has been "framed by the cops before."

When questioned about his drinking, he lies about the amount of alcohol he consumes and justifies his daily drinking by stating that all the guys stop after work and, furthermore, that he feels he is being persecuted unjustly.

CASE NO. 2: POINT ACCUMULATION (10 points)

Motorist:	Brenda McHenry, 19 years old, switchboard operator.
Goal:	Project image of a young woman who is unaware that her perceptual skills are poor because she is myopic and needs glasses. Compounding the driving problem is her lack of practice, since she carpools to work and thus drives only about 50-60 miles per week.
Employment:	Has held same job since high school graduation.
Personal characteristics:	Single; 12th grade education. Smokes less than one pack per day. Has one or two drinks per week only on dates, doesn't drive afterwards.
	Not inclined to be aggressive or angry; even-tempered unless greatly annoyed. Recently has had a few problems with her boss on the job and about money worries.
Driving habits:	Doesn't care for driving, particularly in traffic. Hates to drive in downtown area because it requires so much attention and decisionmaking about lanes, turns, etc. Doesn't like seatbelts because they are too confining.
	Feels that many other drivers are "crazy." She always tries to drive very slowly and carefully, but people often pull out in front of her. She's had several "near-misses" that might have been accidents if "she" hadn't noticed other cars coming at the last second.
Health:	Has had some difficulty lately with split vision, migraine headaches. She attributes vision problems to headaches, and headaches to sinus trouble.
Attitudes:	Feels that police officer was unfair to her in June 1976 accident when she went through the stop sign. She insists that she stopped and that the pickup truck driver was at fault since he came "out of nowhere" so quickly that she couldn't possibly have stopped.

CASE NO. 3: FATAL ACCIDENT

Motorist:	Laura L. Goodman, 48 years old, chief accountant.
Goal:	Project image of stable career woman whose confidence in her driving has been shaken by recent involvement in a head-on collision in which the driver of the other car was killed.
Employment:	Has worked for 18 years for same firm in the accounting department, advancing to chief accountant in 1971.
Personal characteristics:	Married, two grown children, daughter married, son in Navy. High school diploma and 1 year of business school for accounting training. No marital problems, no money worries, some health-related concerns.
	Nonsmoker, social drinker—four or five drinks per week. Job pressures are normal, rising at end of each month with reports due, etc. High-verbal, serious person, concerned about loss of license, but defensive about her innocence in matter.
	Mrs. Goodman resents hearing because court acquitted her of all responsibility for accident, since the other driver crossed the center line and struck her car. She was in the passing lane on a four-lane highway. Road was wet, weather rainy, and she was traveling at the legal limit of 55 mph.
Driving habits:	Normally drives only 150 miles per week, going to and from work and shopping. Wears seatbelts since last accident in 1974, and drives defensively since attending driver improvement school in 1974.
Health:	Has had two major operations within the past three years for stomach ulcer and gall bladder removal. Still sees internist regularly for recurring ulcer symptoms.
Attitudes:	Mrs. Goodman isn't happy about being called in for the hearing. She feels that her court acquittal should suffice as evidence of her innocence. She maintains that she was not at fault in the accident, since it could not have been avoided.
	On being questioned, Mrs. Goodman admits that she may have been traveling too fast for conditions, but "so was the other driver, and he came across the line and hit me!" She was in the passing lane because the right lane was full of potholes and she was afraid to drive there. Her attitude becomes very negative when the hearing officer asks about the accident. She refers him to the accident report and court statement repeatedly.

CASE NO. 4: DRIVING UNDER THE INFLUENCE

Motorist:	Madeline L. Quinn, 30 years old, manager of catering service.
Goal:	Project image of a bright, sophisticated, hardworking woman who feels embarrassed and upset by her driving record and alcohol consumption.
Employment:	Has worked for the Hilton Hotel since 1970.
Personal characteristics:	Divorced within the past 6 months, she has one 8-year-old daughter living with her. Her former husband has custody of their son, 5 years old. Graduated from college with a degree in nutrition education.
	Currently has a discipline problem with her daughter and some financial worries because her husband has fallen behind in his support payments. In addition, she has recently ended an affair with a married man whom she'd expected to marry. She has begun to drink more heavily over the past 2 months "to forget about him." She smokes two packs of cigarettes per day but is trying to cut down. She's also trying to quit taking tranquilizers daily but hasn't succeeded.
	She admits to drinking in the morning, on occasion, to steady her nerves. She feels that without tranquilizers she needs "something." Although she learned about the synergistic effects of combining alcohol and other drugs in her alcohol education in 1975, she doesn't think of herself as addicted to either substance.
Driving habits:	Mrs. Quinn doesn't mind driving, but prefers driving in country to downtown traffic. She uses seatbelts on long trips only. She drives to and from her office and to shopping centers, a total of only 200 miles per week.
Health:	During the last few months of her marriage (winter 1975), she saw a doctor for "nerves" and headaches, and began taking 5 mg Miltown daily. Within 2 months she was taking 10 mg Miltown daily and became concerned about addiction. She now takes only one 5 mg tranquilizer each day but still sees her doctor frequently for migraine headaches.
Attitudes:	Mrs. Quinn feels strongly that both of her DUI arrests were questionable. She did not feel intoxicated and resented the officer's handling of her. She complains that they handcuffed her and treated her "like a criminal" in this most recent arrest. She

resented the suspension in 1975 but accepted it because she had no lawyer and had been convicted by the court.

In this 1976 case, she hired a lawyer to defend her. Since she has been acquitted by the court, she cannot understand how the DMV can take action. The hearing officer's explanation that the two agencies work independently and that the law requires her license to be suspended does not satisfy her.

CASE NO. 5: BREATH TEST REFUSAL

Motorist:	Edward V. Scanlon, 52 years old, real estate agent.
Goal:	Project image of a well-to-do businessman, a problem drinker, who had two previous convictions (one reckless driving and one DUI), and was aware that a third conviction would result in license revocation. His aim is to have the hearing officer accept the court's acquittal. His statement is that he was not drunk, but unable to respond to the officer's request because he was ill and on medication at the time of his arrest.
Employment:	Owner and operator of Scanlon Real Estate for past 12 years. Previously employed for 18 years as agent for Palmer Real Estate Agency.
Personal characteristics:	Divorced for 2 years, four children all married. Mr. Scanlon is an excellent salesman whose business depends on his good reputation in the community. He needs his car for his work. A heavy smoker (more than two packs per day) and a moderately heavy drinker (at least three drinks per evening, more on weekends). Does not think he has a drinking problem. Both he and his former wife have always had a drink before dinner each night, and one or two after dinner. Other than his previous DUI offense, his drinking has never been a problem to him. The first conviction for reckless driving actually was a DUI arrest too that was plea-bargained down by his lawyer. The 1975 DUI conviction resulted in his attending an alcohol school, but the 20-hour course made no impression since he was convinced that his drinking pattern was perfectly normal.
Driving habits:	Normally drives 600-800 miles per week taking clients to see available properties. Drives carefully, but never wears seatbelts. Always drives home from clubs, bars, meetings after his usual three or four drinks. Feels he is a better driver after drinking since he is more relaxed.
Health:	Recent stomach problems and shortness of breath prompted him to see his doctor, who recommended that he cut down on smoking and drinking. Occasional memory loss on "mornings after" a night of heavy drinking.
Attitudes:	Mr. Scanlon begins hearing by assuring hearing officer that he was not drunk at time of the accident. His irregular driving was the result of taking both tranquilizers for his stomach upsets

and antihistamines for a sinus condition. He admits to having had "one drink" that the officer smelled on his breath. He explains that he didn't understand the officer's request for a test because he was too upset over the accident.

Upon being questioned about his drinking, Mr. Scanlon lies about his alcohol consumption and about his general state of health. He anticipates the hearing officer's questions and repeatedly points out that no one was seriously injured in the accident, the court has absolved him of blame, and all damages have been settled out of court.

CASE NO. 6: POINT ACCUMULATION (9 points)

Motorist:	Anthony P. D'Amico, 34 years old, bricklayer.
Goal:	Project image of an impatient, aggressive man who possesses adequate driving skills and drinks only on social occasions. His one fault appears to be that he is unaware of his tendency to speed.
Employment:	Began as an apprentice bricklayer with Baker Construction Company in 1961. Worked for several companies until he got his union card. Has worked for Picone Construction since 1970.
Personal characteristics:	Married, three children; high school diploma. Nonsmoker, drinks only beer. Never drinks during the week, only on weekends at home or at social gatherings. Has only been "drunk," by his estimate, five or six times in his life. No money, job, or marital problems.
Driving habits:	Admits to being "heavy footed," especially when driving to work, since he's often late and trying to make up lost time. Drives 300-400 miles per week to and from construction jobs.
Health:	Excellent, no problems.
Attitudes:	Mr. D'Amico is polite and articulate. He appears anxious about losing his license. He is very respectful and compliant throughout the hearing. His explanation of reckless driving violation in 1974 is that he was driving to the hospital to see his wife. He was not driving his own car, so was not aware of the speed at which he was traveling. Lane changing was because he was impatient in the traffic. On recent offense in July, he was late for work and did not pay attention to speedometer.

CASE NO. 7: DRIVING UNDER THE INFLUENCE

Motorist: Robert J. O'Malley, 47 years old, insurance agent.

Goal: Project image of a confirmed problem drinker who denies his alcoholism, defends his driving actions, and blames others for his problems.

Employment: Has worked as an independent agent for six insurance companies over the past 25 years, but has lost his four biggest life insurance companies within the past 2 years. Now writes policies only for one automobile insurance and one homeowner's company.

Personal characteristics: Divorced from first wife in 1968. Married present wife in 1970. A large man, Mr. O'Malley earned his early reputation as a football star at the local high school and State college. After college, he became an extremely successful insurance agent, earning $25,000-$30,000 per year by the late 1960's.

Smokes and drinks heavily. Has been trying to cut down from three to two packs per day because his doctor has told him that he must. Admits that he had a drinking problem at one time, but thinks that he can now handle one or two drinks per day. He maintains that his lifestyle (entertaining clients, working evenings) makes it difficult for him not to drink.

Admits to some work-related problems recently, but insists they are not because of his drinking. Many of his accounts have changed to another agent because the "young smart-ass college kids from other insurance companies sell them short on benefits or lie about the acceleration on their premiums."

When asked if his wife/friends/employer thinks he drinks too much, he hesitates, but then admits that they've all been asking about it recently. He states that it's just because everyone knows he once had a problem and he's been "labeled" as a drunk, so no one will ever believe him now that he has improved. He could stop anytime and has stopped for months at a time over the past 5 years.

Driving habits: On his insurance calls, he currently drives 75-100 miles per day; wears seatbelts only on long trips. At least once a month, he likes to drive to the country, 150-200 miles over a weekend. His years of driving experience have made him very confident of his driving ability.

Health: Recently his doctor has suggested that he cut down on eating, smoking, and drinking because of a high cholesterol problem and his family history of heart disease. When questioned, he adds that doctors always tell you to quit doing all the things you enjoy, while they keep on doing them.

Attitudes: O'Malley is a typical problem drinker—perhaps a full-blown alcoholic. He denies that his liquor consumption is unusual and doesn't consider himself addicted to alcohol. He feels that many other drivers are worse than he is--he just happened to be unlucky enough to get caught. He becomes slightly hostile at the suggestion that he is a danger on the highway.

With regard to the August 1976 DUI conviction, he says the officer was lying in wait for him outside the bar and that the judge was unfair in believing only the policeman and not listening to his side of the story. He is positive that he can drive safely with five or six drinks, because he is a big man and a high BAC doesn't mean as much in a large person as it does in a 125 or 150 pound person.

CASE NO. 8: POINT ACCUMULATION (16 points)

Motorist:	Lewis B. Stone, 26 years old, truck driver.
Goal:	Project image of an annoyed, impatient young man who feels as if the police and the DMV are persecuting him. Answers questions very reluctantly, in a sullen manner; acts bored and impatient.
Employment:	1970-71—Acme Trucking Company. 1971-73—Teson Trucking Incorporated. 1973-74—Associated Transfer Company. 1974-present—self-employed as truck owner.
Personal characteristics:	Single and a high school dropout, Mr. Stone is very hostile toward authority figures. His lifestyle is very loose and free. He drinks and smokes heavily, two packs per day. He insists that he never drinks for 12 hours before making a "run" and has never been drunk behind the wheel. Recently he's had trouble with his girlfriend and with his various employers, because "they all try to make me live by their rules." His income has dropped because of disagreements with his usual clients. His debts are piling up. He likes the feeling of power he gets in driving a large rig and resents the police and the DMV's interference in his life.
Driving habits:	Stone likes to drive and uses his car and truck to relax in. Never wears seatbelts. He feels he's an excellent driver, better than most other professionals. He's made some mistakes, however, in not watching out for the State Police while driving his truck.
Health:	Excellent, no problems.
Attitudes:	Mr. Stone is openly hostile toward the DMV and the police. His general feeling is one of powerlessness against "the system." He accuses the officer who made the August 1976 reckless driving arrest of maltreating him and insists that the light was not red but yellow when he went through it. He blames the other driver for the accident.

CASE NO. 9: POINT ACCUMULATION (8 points)

Motorist:	Daniel R. Felker, 36 years old, college instructor.
Goal:	Project image of articulate, well-educated middle-class male, with no aggressive tendencies, anxious about losing license.
Employment:	Has been an instructor at community college for 10 years, worked in private industry for 3 years before this. Also holds position as part-time instructor at State college campus 80 miles from home.
Personal characteristics:	Married, three children, wife works part time. Master's degree in education, finishing course work for Ph.D. No marital problems, some money worries. Nonsmoker, drinks only wine occasionally. No great job problems except for pressure of traveling 80 miles each way to part-time teaching job 2 days per week. Intense, serious person, very concerned about possibility of loss of license.
Driving habits:	Normally a careful driver, always wears seatbelts. Demands of 500 miles per week travel and keeping a tight schedule at each school where he teaches have led him to speed occasionally to make up time and keep from being late. Enjoys driving, will drive to relax.
Health:	Good, but occasional migraine headaches, usually associated with lack of sleep and strenuous schedule.
Attitudes:	Mr. Felker is extremely polite and cooperative during the hearing. He answers all questions accurately and concisely. Explains that in the most recent violation, he was in a line of five cars that eased through the stop sign without actually coming to a stop because of high traffic volume on freeway. All five drivers were ticketed. He attributed the December 1975 speeding violation to his unfamiliarity with his new car. He was preoccupied and not aware of the speedometer.

CASE NO. 10: POINT ACCUMULATION (13 points)

Motorist:	Erma C. Duncan, 64 years old, seamstress.
Goal:	Project image of elderly new driver who only drives to and from her workplace, church, and shopping center. She is confused and unhappy about her accident record but unwilling to lose her license, since no public transportation is available to her.
Employment:	Worked as seamstress part time (often at home) from 1960 to 1970. Has worked full time at store since 1970.
Personal characteristics:	Widowed since 1973, with two married daughters; 10th grade education. Nonsmoker and nondrinker. Quiet, well mannered, and polite, but firm in her belief that she is a conscientious, careful person. Underconfident about her driving, but not ready to admit this.
Driving habits:	Never drives except to and from work, church, and shopping (all within 25-mile radius of her home). Daughters pick her up if she visits them, since they both live 40-50 miles away and she can't drive that far. Never drives at night if she can avoid it. Normally doesn't drive in bad weather because she's fearful of snow, ice, heavy rain. If she can't work at home on bad days, she asks a neighbor or friend to take her to work.
Health:	Has had several attacks of irregular heartbeat and other circulatory problems recently. These sometimes produce shakiness and even temporary paralysis of arms and legs, but she is on medication for this. Never drives when she's feeling bad.
Attitudes:	Mrs. Duncan feels as if she's being persecuted by the DMV because of her age. She also shows slight paranoia when talking about how the accidents happened, saying things like, "In the first accident, that man just sat there in his old car and let me hit him, just to get the insurance money so he could replace his old, rusted-out car." In explaining the most recent accident, she claims that the fault was not hers because she could have gotten into the traffic opening, but the driver of the car she hit increased his speed and filled the gap too quickly. The third car in that accident also was going too fast because he should have been able to stop when he saw the original collision.

HEARING CRITIQUE FORM

Name of hearing officer _____ Hearing No. _____

Rate the hearing officer's overall performance in demonstrating the techniques as presented in the seminar.
Place a check in the appropriate column. Write supplementary or clarifying comments in the space provided.

	Yes	No	Comments
Legal Aspects Did the hearing officer:			
1. Explain the statute violated, hearing source, purpose, and possible outcomes?			
2. Inform driver of his or her right to have counsel present? If none present, right must be waived before hearing can continue.			
3. Record (either mechanical or written) all necessary elements of the hearing?			
4. Elicit proper testimony with regard to all facts required for a fair and impartial hearing?			
5. Review the driver's prior record appropriately and at the proper time?			
6. Offer a clear and concise explanation of the sanction imposed and rationale for same?			
7. Question to determine if the motorist understood the decision, its implications for driving, and of the right to appeal?			

	Yes	No	Comments
Public Safety Did the hearing officer: 1. Adequately probe and correctly identify the motorist's real driving problem?			
2. Choose the sanction most likely to lead to improvement in subsequent driving behavior?			
3. Effectively combine sanctions to produce most desirable consequences?			
4. Impress the motorist with the seriousness of traffic offenses?			
5. Generate respect for the law and the DMV through his or her handling of hearing?			

	Yes	No	Comments
Interpersonal Dynamics Did the hearing officer:			
1. Initially put motorist at ease?			
2. Express appropriate amount of concern for driver's safety?			
3. Observe cues in motorist's conversation and demeanor which contributed to identification of driving problem?			
4. Respond politely to motorist's questions?			
5. Use open-ended questions to gain additional information where necessary?			
6. Assure the accuracy of testimony by use of perception-checking and active listening techniques?			
7. Use nonverbal techniques to optimize effective communication (tone of voice, eye contact, awareness, etc.)?			

Unit 10
COURSE SUMMARY

PROCEDURES

Procedures for unit 10 are as follows:

- Time allotted—Day Two, 45 minutes.
- Method—discussion.
- Equipment required—none.

INSTRUCTIONAL OBJECTIVES

The objectives for the instructor of unit 10 are:

- To review all hearing procedures and techniques covered in the seminar.
- To answer any questions regarding the seminar materials or references.
- To administer the postseminar questionnaire and seminar evaluation form.

REFERENCES

No references are required for this unit.

Instructor's outline	Supporting materials
A. Review of Seminar Each of the following issues should be reviewed and summarized for participants: 1. Three aspects of the hearing officer's role (legal, public safety, and interpersonal) 2. Key elements necessary for administrative hearing record to meet requirements of due process and be upheld on appeal 3. Driver problem identification using Driver Profile 4. Sanctions most appropriate for different types of driver problems identified 5. Techniques to be used in the hearings to improve communication between hearing officer and motorist	
B. Postseminar Questionnaires 1. Distribute postseminar questionnaires 2. Distribute seminar evaluation forms	Postseminar questionnaires (Handout 10-1) and seminar evaluation forms (Handout 10-2)

DRIVER LICENSING ADMINISTRATIVE HEARING OFFICER INSERVICE SEMINAR: POSTSEMINAR QUESTIONNAIRE

This questionnaire is designed to determine the extent to which the training objectives of the seminar have been met. Please answer the following questions to the best of your ability. If you need more space for your answers, use additional pages.

1. Indicate whether the following types of hearing are administrative (application of agency policy) or judicial (determination of guilt or innocence), or both, by placing a checkmark in the appropriate column(s).

	Administrative	Judicial
Point accumulation	___	___
Driving under the influence	___	___
Out-of-State notice of violation	___	___
Breath test refusal	___	___
License removal or restriction	___	___
Reinstatement of privileges	___	___
Fatal accident	___	___
Persistent violations	___	___

2. List below the minimum requirements that must be contained in the licensing agency hearing procedures to assure that "due process of law" is afforded to the motorist.

_____
_____
_____

3. How do the rules of evidence used in an administrative hearing differ from those that apply in a court of law?

_____
_____
_____

4. What are the minimal procedural elements of a hearing that must be entered into the record so that a court of appeals will not overturn the hearing decision for procedural reasons?

_____
_____
_____

5. At what point in the administrative hearing can the driver's record be reviewed?

_____
_____

6. At what point in the judicial hearing can the driver's record be reviewed?

_____

_____

7. List three driver characteristics that, according to recent research, are most likely to be predictive of future violations and/or accident involvement.

_____

_____

_____

8. List four behaviors of a hearing officer that promote the establishment of good rapport with a motorist.

_____

_____

_____

_____

9. What two things must the hearing officer get the driver to do in the hearing to increase the likelihood of improved driver attitude and improved subsequent driving behavior?

_____

_____

10. What are the responsibilities of the hearing officer with regard to the three major aspects of his or her job?

Legal aspects: _____

_____

_____

Public safety aspects: _____

_____

_____

Interpersonal aspects: _____

_____

_____

DRIVER LICENSING ADMINISTRATIVE HEARING OFFICER INSERVICE SEMINAR EVALUATION

Your responses to the following questions will help us to evaluate the seminar. We appreciate your cooperation in this assessment.

Please check your answer.

1. Was the background material included in each unit sufficiently detailed to allow you to feel comfortable in discussing the issues?

   Sufficient for understanding ___3 ___2 ___1 ___0 Insufficient

2. Considering the content of the seminar materials, do you believe the lecture/discussion approach used is appropriate?

   Very appropriate ___3 ___2 ___1 ___0 Inappropriate

   If you feel that another approach should be used, please describe.

   _____

   _____

3. How important were the sample hearing tapes to your learning experience?

   Very important ___3 ___2 ___1 ___0 Not at all

4. Were the seminar's role-playing sessions helpful?

   Very helpful ___3 ___2 ___1 ___0 Not helpful

5. Was the level of group discussion satisfactory?

   Satisfactory ___3 ___2 ___1 ___0 Unsatisfactory

   If unsatisfactory, was it too much or too little? Please describe.

   _____

   _____

6. What portions of the seminar will you find most useful on the job? Please explain.

   _____

   _____

   _____

7. What additional content areas would you suggest be included in this seminar?

_____

_____

_____

8. Please assign percentages of seminar time you would like to see devoted to the topics below:

   a. Highway safety statistics and related background on DMV's ____

   b. Legal requirements of due process ____

   c. Driver problem identification ____

   d. Interviewing techniques ____

   e. Sanctioning ____

9. Overall, was your attendance at this seminar a worthwhile learning experience?

Very worthwhile					Not at all
	3	2	1	0	

10. Have you any specific recommendations to improve the seminar format, materials, or presentation? Please list below.

_____

_____

_____

_____

APPENDIX A
INSTRUCTIONS FOR USE OF AUDIOTAPES

UNIT 6, TAPE A

This tape demonstrates a model hearing in which all of the techniques being taught in this seminar are used.

The specific items to be noted on the tape are:

- Motorist is greeted informally to be put at ease.
- Motorist is informed that hearing is being recorded.
- Motorist is sworn in.
- Motorist is informed of right to counsel and right to appeal.
- All necessary efforts are made to identify motorist's problem, without alienating him.
- Motorist is encouraged to recognize his drinking problem on his own.
- Findings of fact and conclusions are correctly delivered.

UNIT 6, TAPE B, SIDE 1

All of the sample cases used here are examples of unsatisfactory personal interactions and poor interviewing techniques, but, in addition, each is deficient in the legal area.

Case B-1

The tape begins at the conclusion of a hearing for discretionary suspension on point accumulation.

This female motorist allowed an unlicensed person to drive; this offense is a 14-point violation. It appears that the hearing officer originally decided to suspend, then changed his mind when the woman began to cry. He then informs her that she will have to attend school in lieu of the suspension. He is obviously upset by her crying, as evidenced by his saying she must attend the clinic "one evening per night."

The legal aspects involved in the hearing are:

- Motorist was not advised of right to appeal.
- No findings of fact or conclusions were given for the record.

Questions for discussion are:

- What is your general opinion of the hearing officer's behavior in this case?
- How should the hearing officer have handled this situation?
- How representative is this case?

Case B-2

The tape begins at the point where the motorist is asked to present his case as to why his license should not be revoked.

This 18-year-old male has accumulated 13 points and has had two license suspensions within the past 2 years. The hearing officer's manner is impatient, abrupt, and at times actively sarcastic. He brings up the responsibility he feels in removing the driver from the road but does so in a very negative manner.

The legal aspects in this case are:

- No findings of fact or conclusions were given for the record.
- Sanction explanation was given too quickly and in a "canned" manner.

Questions for discussion are:

- What is your general opinion of the hearing officer's behavior in this case?
- What could he have done in this situation to improve the motorist's subsequent driving behavior?

Case B-3

The tape begins near the conclusion of a hearing.

This 25-year-old Mexican-American motorist obviously had difficulty in understanding the hearing officer. The questions asked were, on occasion, open ended, but the hearing officer did not allow the motorist to respond adequately.

The legal aspect important in this hearing is that no findings of fact or conclusions are given for the record.

Questions to be discussed are:

- What is your general opinion of the hearing officer's behavior in this case?
- What other measures should have been used with this driver (e.g., driving clinic)?
- Should the hearing officer have asked more questions about the driver's car, his speedometer, etc.?

UNIT 6, TAPE B, SIDE 2

These brief excerpts are representative of hearings in which the requirements of due process are not observed. In the first excerpt, the hearing officer fails to mention the right to counsel; in the second excerpt, the hearing officer fails to mention the right to appeal. The third excerpt is an example of a breath test refusal case in which the hearing officer examines the driver's record before coming to his conclusion of guilt or innocence.

UNIT 8, TAPE C

Side 1 of this tape contains a series of hearing excerpts in which questions or statements made by the hearing officer are considered to be poorly phrased, negative in tone, or abrupt in nature.

APPENDIX B
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